

Union Calendar No. 29

105TH CONGRESS
1ST Session

H. R. 240

[Report No. 105-40, Part I]

A BILL

To amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, and for other purposes.

APRIL 7, 1997

The Committees on House Oversight, the Judiciary, and Transportation and Infrastructure discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1997

Mr. MICA (for himself, Mr. SOLOMON, Mr. STUMP, and Mr. EVERETT) introduced the following bill; which was referred to the Committee on Government Reform and Oversight, and in addition to the Committees on House Oversight, the Judiciary, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

MARCH 20, 1997

Reported from the Committee on Government Reform and Oversight with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

MARCH 20, 1997

Referral to the Committees on House Oversight, the Judiciary, and Transportation and Infrastructure extended for a period ending not later than April 4, 1997

APRIL 4, 1997

Additional sponsors: Mr. FRELINGHUYSEN, Mr. DAVIS of Virginia, Mr. CALVERT, Mr. FILNER, Mr. RAMSTAD, Mr. HOLDEN, Mr. EVANS, Mr. BUYER, Mrs. KELLY, Mr. KLUG, Mr. COYNE, Mr. RAHALL, Mr. LIPINSKI, Mr. CANADY of Florida, Mr. GALLEGLY, Mr. SCHIFF, Mr. CAMP, Mr. BORSKI, Mr. LUTHER, Mr. FAZIO of California, Mr. ENSIGN, Mr. MANZULLO, and Mr. ENGLISH of Pennsylvania

APRIL 4, 1997

The Committees on House Oversight, the Judiciary, and Transportation and Infrastructure discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on January 7, 1997]

A BILL

To amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Veterans Employment*
5 *Opportunities Act of 1997”.*

6 **SEC. 2. EQUAL ACCESS FOR VETERANS.**

7 (a) *COMPETITIVE SERVICE.*—Section 3304 of title 5,
8 *United States Code, is amended by adding at the end the*
9 *following:*

10 “(f)(1) *No preference eligible, and no individual (other*
11 *than a preference eligible) who has been separated from the*
12 *armed forces under honorable conditions after 3 or more*
13 *years of active service, shall be denied the opportunity to*
14 *compete for an announced vacant position within an agen-*
15 *cy, in the competitive service or the excepted service, by rea-*
16 *son of—*

1 “(A) not having acquired competitive status; or

2 “(B) not being an employee of such agency.

3 “(2) Nothing in this subsection shall prevent an agency
4 from filling a vacant position (whether by appointment or
5 otherwise) solely from individuals on a priority placement
6 list consisting of individuals who have been separated from
7 the agency due to a reduction in force and surplus employ-
8 ees (as defined under regulations prescribed by the Office).”.

9 (b) CIVIL SERVICE EMPLOYMENT INFORMATION.—

10 (1) VACANT POSITIONS.—Section 3327(b) of title
11 5, United States Code, is amended by striking “and”
12 at the end of paragraph (1), by redesignating para-
13 graph (2) as paragraph (3), and by inserting after
14 paragraph (1) the following:

15 “(2) each vacant position in the agency for
16 which competition is restricted to individuals having
17 competitive status or employees of such agency, ex-
18 cluding any position under paragraph (1), and”.

19 (2) ADDITIONAL INFORMATION.—Section 3327 of
20 title 5, United States Code, is amended by adding at
21 the end the following:

22 “(c) Any notification provided under this section shall,
23 for all positions under subsection (b)(1) as to which section
24 3304(f) applies and for all positions under subsection

1 (b)(2), include a notation as to the applicability of section
 2 3304(f) with respect thereto.

3 “(d) In consultation with the Secretary of Labor, the
 4 Office shall submit to Congress and the President, no less
 5 frequently than every 2 years, a report detailing, with re-
 6 spect to the period covered by such report—

7 “(1) the number of positions listed under this
 8 section during such period;

9 “(2) the number of preference eligibles and other
 10 individuals described in section 3304(f)(1) referred to
 11 such positions during such period; and

12 “(3) the number of preference eligibles and other
 13 individuals described in section 3304(f)(1) appointed
 14 to such positions during such period.”.

15 (c) GOVERNMENTWIDE LISTS.—

16 (1) VACANT POSITIONS.—Section 3330(b) of title
 17 5, United States Code, is amended to read as follows:

18 “(b) The Office of Personnel Management shall cause
 19 to be established and kept current—

20 “(1) a comprehensive list of all announcements
 21 of vacant positions (in the competitive service and the
 22 excepted service, respectively) within each agency that
 23 are to be filled by appointment for more than 1 year
 24 and for which applications are being or will soon be
 25 accepted from outside the agency’s work force; and

1 “(2) a comprehensive list of all announcements
 2 of vacant positions within each agency for which ap-
 3 plications are being or will soon be accepted and for
 4 which competition is restricted to individuals having
 5 competitive status or employees of such agency, ex-
 6 cluding any position required to be listed under para-
 7 graph (1).”.

8 (2) *ADDITIONAL INFORMATION.*—Section 3330(c)
 9 of title 5, United States Code, is amended by striking
 10 “and” at the end of paragraph (2), by redesignating
 11 paragraph (3) as paragraph (4), and by inserting
 12 after paragraph (2) the following:

13 “(3) for all positions under subsection (b)(1) as
 14 to which section 3304(f) applies and for all positions
 15 under subsection (b)(2), a notation as to the applica-
 16 bility of section 3304(f) with respect thereto; and”.

17 (3) *CONFORMING AMENDMENT.*—Section 3330(d)
 18 of title 5, United States Code, is amended by striking
 19 “The list” and inserting “Each list under subsection
 20 (b)”.

21 (d) *PROVISIONS RELATING TO THE UNITED STATES*
 22 *POSTAL SERVICE.*—

23 (1) *IN GENERAL.*—Subsection (a) of section 1005
 24 of title 39, United States Code, is amended by adding
 25 at the end the following:

1 “(5)(A) *The provisions of section 3304(f) of title 5 shall*
 2 *apply with respect to the Postal Service in the same manner*
 3 *and under the same conditions as if the Postal Service were*
 4 *an agency within the meaning of such provisions.*

5 “(B) *Nothing in this subsection shall be considered to*
 6 *require the application of section 3304(f) of title 5 in the*
 7 *case of any individual who is not an employee of the Postal*
 8 *Service if—*

9 “(i) *the vacant position involved is to be filled*
 10 *pursuant to a collective-bargaining agreement;*

11 “(ii) *the collective-bargaining agreement restricts*
 12 *competition for such position to individuals employed*
 13 *in a bargaining unit or installation within the Postal*
 14 *Service in which the position is located;*

15 “(iii) *the collective-bargaining agreement pro-*
 16 *vides that the successful applicant shall be selected on*
 17 *the basis of seniority or qualifications; and*

18 “(iv) *the position to be filled is within a bar-*
 19 *gaining unit.*

20 “(C) *The provisions of this paragraph shall not be*
 21 *modified by any program developed under section 1004 of*
 22 *this title or any collective-bargaining agreement entered*
 23 *into under chapter 12 of this title.”.*

24 (2) *CONFORMING AMENDMENT.—The first sen-*
 25 *tence of section 1005(a)(2) of title 39, United States*

1 *Code, is amended by striking “title.” and inserting*
 2 *“title, subject to paragraph (5) of this subsection.”.*

3 **SEC. 3. SPECIAL PROTECTIONS FOR PREFERENCE ELIGI-**
 4 **BLES IN REDUCTIONS IN FORCE.**

5 *(a) IN GENERAL.—Section 3502 of title 5, United*
 6 *States Code, as amended by section 1034 of the National*
 7 *Defense Authorization Act for Fiscal Year 1996 (Public*
 8 *Law 104–106; 110 Stat. 430), is amended by adding at*
 9 *the end the following:*

10 *“(g)(1) A position occupied by a preference eligible*
 11 *shall not be placed in a single-position competitive level if*
 12 *the preference eligible is qualified to perform the essential*
 13 *functions of any other position at the same grade (or occu-*
 14 *pational level) in the competitive area. In such cases, the*
 15 *preference eligible shall be entitled to be placed in another*
 16 *competitive level for which such preference eligible is quali-*
 17 *fied. If the preference eligible is qualified for more than one*
 18 *competitive level, such preference eligible shall be placed in*
 19 *the competitive level containing the most positions.*

20 *“(2) For purposes of paragraph (1)—*

21 *“(A) a preference eligible shall be considered*
 22 *qualified to perform the essential functions of a posi-*
 23 *tion if, by reason of experience, training, or education*
 24 *(and, in the case of a disabled veteran, with reason-*
 25 *able accommodation), a reasonable person could con-*

1 *clude that the preference eligible would be able to per-*
2 *form those functions successfully within a period of*
3 *150 days; and*

4 *“(B) a preference eligible shall not be considered*
5 *unqualified solely because such preference eligible does*
6 *not meet the minimum qualification requirements re-*
7 *lating to previous experience in a specified grade (or*
8 *occupational level), if any, that are established for*
9 *such position by the Office of Personnel Management*
10 *or the agency.*

11 *“(h) In connection with any reduction in force, a pref-*
12 *erence eligible whose current or most recent performance*
13 *rating is at least fully successful (or the equivalent) shall*
14 *have, in addition to such assignment rights as are pre-*
15 *scribed by regulation, the right, in lieu of separation, to*
16 *be assigned to any position within the agency conducting*
17 *the reduction in force—*

18 *“(1) for which such preference eligible is quali-*
19 *fied under subsection (g)(2)—*

20 *“(A) that is within the preference eligible’s*
21 *commuting area and at the same grade (or occu-*
22 *pational level) as the position from which the*
23 *preference eligible was released, and that is then*
24 *occupied by an individual, other than another*
25 *preference eligible, who was placed in such posi-*

1 *tion (whether by appointment or otherwise)*
2 *within 6 months before the reduction in force if,*
3 *within 12 months prior to the date on which*
4 *such individual was so placed in such position,*
5 *such individual had been employed in the same*
6 *competitive area as the preference eligible; or*

7 *“(B) that is within the preference eligible’s*
8 *competitive area and that is then occupied by an*
9 *individual, other than another preference eligible,*
10 *who was placed in such position (whether by ap-*
11 *pointment or otherwise) within 6 months before*
12 *the reduction in force; or*

13 *“(2) for which such preference eligible is quali-*
14 *fied that is within the preference eligible’s competitive*
15 *area and that is not more than 3 grades (or pay lev-*
16 *els) below that of the position from which the pref-*
17 *erence eligible was released, except that, in the case of*
18 *a preference eligible with a compensable service-con-*
19 *nected disability of 30 percent or more, this para-*
20 *graph shall be applied by substituting ‘5 grades’ for*
21 *‘3 grades’.*

22 *In the event that a preference eligible is entitled to assign-*
23 *ment to more than 1 position under this subsection, the*
24 *agency shall assign the preference eligible to any such posi-*
25 *tion requiring no reduction (or, if there is no such position,*

1 *the least reduction) in basic pay. A position shall not, with*
 2 *respect to a preference eligible, be considered to satisfy the*
 3 *requirements of paragraph (1) or (2), as applicable, if it*
 4 *does not last for at least 12 months following the date on*
 5 *which such preference eligible is assigned to such position*
 6 *under this subsection.*

7 “(i) *A preference eligible may challenge the classifica-*
 8 *tion of any position to which the preference eligible asserts*
 9 *assignment rights (as provided by, or prescribed by regula-*
 10 *tions described in, subsection (h)) in an action before the*
 11 *Merit Systems Protection Board.*

12 “(j)(1) *Not later than 90 days after the date of the*
 13 *enactment of the Veterans Employment Opportunities Act*
 14 *of 1997, each Executive agency shall establish an agency-*
 15 *wide priority placement program to facilitate employment*
 16 *placement for employees who—*

17 “(A)(i) *are scheduled to be separated from service*
 18 *due to a reduction in force under—*

19 “(I) *regulations prescribed under this sec-*
 20 *tion; or*

21 “(II) *procedures established under section*
 22 *3595; or*

23 “(ii) *are separated from service due to such a re-*
 24 *duction in force; and*

1 “(B)(i) have received a rating of at least fully
2 successful (or the equivalent) as the last performance
3 rating of record used for retention purposes; or

4 “(ii) occupy positions excluded from a perform-
5 ance appraisal system by law, regulation, or adminis-
6 trative action taken by the Office of Personnel Man-
7 agement.

8 “(2)(A) Each agencywide priority placement program
9 under this subsection shall include provisions under which
10 a vacant position shall not (except as provided in this para-
11 graph or any other statute providing the right of reemploy-
12 ment to any individual) be filled by the appointment or
13 transfer of any individual from outside of that agency
14 (other than an individual described in subparagraph (B))
15 if—

16 “(i) there is then available any individual de-
17 scribed in subparagraph (B) who is qualified for the
18 position; and

19 “(ii) the position—

20 “(I) is at the same grade or pay level (or
21 the equivalent) or not more than 3 grades (or
22 grade intervals) below that of the position last
23 held by such individual before placement in the
24 new position;

1 “(II) is within the same commuting area as
 2 the individual’s last-held position (as referred to
 3 in subclause (I)) or residence; and

4 “(III) has the same type of work schedule
 5 (whether full-time, part-time, or intermittent) as
 6 the position last held by the individual.

7 “(B) For purposes of an agencywide priority place-
 8 ment program, an individual shall be considered to be de-
 9 scribed in this subparagraph if such individual—

10 “(i)(I) is an employee of such agency who is
 11 scheduled to be separated, as described in paragraph
 12 (1)(A)(i); or

13 “(II) is an individual who became a former em-
 14 ployee of such agency as a result of a separation, as
 15 described in paragraph (1)(A)(ii), excluding any in-
 16 dividual who separated voluntarily under subsection
 17 (f); and

18 “(ii) satisfies clause (i) or (ii) of paragraph
 19 (1)(B).

20 “(3)(A) If after a reduction in force the agency has
 21 no positions of any type within the local commuting areas
 22 specified in this subsection, the individual may designate
 23 a different local commuting area where the agency has con-
 24 tinuing positions in order to exercise reemployment rights
 25 under this subsection. An agency may determine that such

1 *designations are not in the interest of the Government for*
2 *the purpose of paying relocation expenses under subchapter*
3 *II of chapter 57.*

4 “(B) *At its option, an agency may administratively*
5 *extend reemployment rights under this subsection to include*
6 *other local commuting areas.*

7 “(4)(A) *In selecting employees for positions under this*
8 *subsection, the agency shall place qualified present and*
9 *former employees in retention order by veterans’ preference*
10 *subgroup and tenure group.*

11 “(B) *An agency may not pass over a qualified present*
12 *or former employee to select an individual in a lower veter-*
13 *ans’ preference subgroup within the tenure group, or in a*
14 *lower tenure group.*

15 “(C) *Within a subgroup, the agency may select a*
16 *qualified present or former employee without regard to the*
17 *individual’s total creditable service.*

18 “(5) *An individual is eligible for reemployment prior-*
19 *ity under this subsection for 2 years from the effective date*
20 *of the reduction in force from which the individual will be,*
21 *or has been, separated under this section or section 3595,*
22 *as the case may be.*

23 “(6) *An individual loses eligibility for reemployment*
24 *priority under this subsection when the individual—*

25 “(A) *requests removal in writing;*

1 “(B) accepts or declines a bona fide offer under
2 this subsection or fails to accept such an offer within
3 the period of time allowed for such acceptance, or

4 “(C) separates from the agency before being sepa-
5 rated under this section or section 3595, as the case
6 may be.

7 A present or former employee who declines a position with
8 a representative rate (or equivalent) that is less than the
9 rate of the position from which the individual was sepa-
10 rated under this section retains eligibility for positions with
11 a higher representative rate up to the rate of the individ-
12 ual’s last position.

13 “(7) Whenever more than one individual is qualified
14 for a position under this subsection, the agency shall select
15 the most highly qualified individual, subject to paragraph
16 (4).

17 “(8) The Office of Personnel Management shall issue
18 regulations to implement this subsection.”.

19 (b) *APPLICABILITY.*—

20 (1) *IN GENERAL.*—Subject to paragraph (2), the
21 amendments made by this section shall apply with re-
22 spect to—

23 (A) reductions in force taking effect after
24 the end of the 90-day period beginning on the
25 date of the enactment of this Act; or

1 (B) in the case of the Department of De-
 2 fense, reductions in force taking effect after the
 3 end of the 1-year period beginning on the date
 4 of the enactment of this Act.

5 (2) ONGOING REDUCTIONS IN FORCE.—If an
 6 agency has given written notice of a reduction in
 7 force to any of its employees within a competitive
 8 area, in accordance with section 3502(d)(1)(A) of title
 9 5, United States Code, before the effective date under
 10 subparagraph (A) or (B) of paragraph (1), as appli-
 11 cable, then, for purposes of determining the rights of
 12 any employee within such area in connection with
 13 such reduction in force, the amendments made by this
 14 section shall be treated as if they had never been en-
 15 acted. Nothing in the preceding sentence shall affect
 16 any rights under a priority placement program under
 17 section 3502(j) of title 5, United States Code, as
 18 amended by this section.

19 **SEC. 4. IMPROVED REDRESS FOR VETERANS.**

20 (a) IN GENERAL.—Subchapter I of chapter 33 of title
 21 5, United States Code, is amended by adding at the end
 22 the following:

23 **“§ 3330a. Administrative redress**

24 “(a)(1) Any preference eligible or other individual de-
 25 scribed in section 3304(f)(1) who alleges that an agency has

1 *violated such individual's rights under any statute or regu-*
2 *lation relating to veterans' preference, or any right afforded*
3 *such individual by section 3304(f), may file a complaint*
4 *with the Secretary of Labor.*

5 “(2) *A complaint under this subsection must be filed*
6 *within 60 days after the date of the alleged violation, and*
7 *the Secretary shall process such complaint in accordance*
8 *with sections 4322 (a) through (e)(1) and 4326 of title 38.*

9 “(b)(1) *If the Secretary of Labor is unable to resolve*
10 *the complaint within 60 days after the date on which it*
11 *is filed, the complainant may elect to appeal the alleged*
12 *violation to the Merit Systems Protection Board in accord-*
13 *ance with such procedures as the Merit Systems Protection*
14 *Board shall prescribe, except that in no event may any such*
15 *appeal be brought—*

16 “(A) *before the 61st day after the date on which*
17 *the complaint is filed under subsection (a); or*

18 “(B) *later than 15 days after the date on which*
19 *the complainant receives notification from the Sec-*
20 *retary of Labor under section 4322(e)(1) of title 38.*

21 “(2) *An appeal under this subsection may not be*
22 *brought unless—*

23 “(A) *the complainant first provides written noti-*
24 *fication to the Secretary of Labor of such complain-*
25 *ant's intention to bring such appeal; and*

1 “(B) appropriate evidence of compliance with
 2 subparagraph (A) is included (in such form and
 3 manner as the Merit Systems Protection Board may
 4 prescribe) with the notice of appeal under this sub-
 5 section.

6 “(3) Upon receiving notification under paragraph
 7 (2)(A), the Secretary of Labor shall not continue to inves-
 8 tigate or further attempt to resolve the complaint to which
 9 such notification relates.

10 “(c) This section shall not be construed to prohibit a
 11 preference eligible from appealing directly to the Merit Sys-
 12 tems Protection Board from any action which is appealable
 13 to the Board under any other law, rule, or regulation, in
 14 lieu of administrative redress under this section.

15 **“§ 3330b. Judicial redress**

16 “(a) In lieu of continuing the administrative redress
 17 procedure provided under section 3330a(b), a preference eli-
 18 gible or other individual described in section 3304(f)(1)
 19 may elect, in accordance with this section, to terminate
 20 those administrative proceedings and file an action with
 21 the appropriate United States district court not later than
 22 60 days after the date of the election.

23 “(b) An election under this section may not be made—

1 “(1) before the 121st day after the date on which
2 the appeal is filed with the Merit Systems Protection
3 Board under section 3330a(b); or

4 “(2) after the Merit Systems Protection Board
5 has issued a judicially reviewable decision on the
6 merits of the appeal.

7 “(c) An election under this section shall be made, in
8 writing, in such form and manner as the Merit Systems
9 Protection Board shall by regulation prescribe. The election
10 shall be effective as of the date on which it is received, and
11 the administrative proceeding to which it relates shall ter-
12 minate immediately upon the receipt of such election.

13 **“§ 3330c. Remedy**

14 “(a) If the Merit Systems Protection Board (in a pro-
15 ceeding under section 3330a) or a court (in a proceeding
16 under section 3330b) determines that an agency has vio-
17 lated a right described in section 3330a, the Board or court
18 (as the case may be) shall order the agency to comply with
19 such provisions and award compensation for any loss of
20 wages or benefits suffered by the individual by reason of
21 the violation involved. If the Board or court determines that
22 such violation was willful, it shall award an amount equal
23 to backpay as liquidated damages.

24 “(b) A preference eligible or other individual described
25 in section 3304(f)(1) who prevails in an action under sec-

tion 3330a or 3330b shall be awarded reasonable attorney fees, expert witness fees, and other litigation expenses.”.

(b) *CLERICAL AMENDMENT.*—The table of sections at the beginning of chapter 33 of title 5, United States Code, is amended by adding after the item relating to section 3330 the following:

“3330a. *Administrative redress.*

“3330b. *Judicial redress.*

“3330c. *Remedy.*”.

SEC. 5. EXTENSION OF VETERANS’ PREFERENCE.

(a) *AMENDMENT TO TITLE 5, UNITED STATES CODE.*—Paragraph (3) of section 2108 of title 5, United States Code, is amended by striking “the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service, or the General Accounting Office;” and inserting “or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service;”.

(b) *AMENDMENTS TO TITLE 3, UNITED STATES CODE.*—

(1) *IN GENERAL.*—Chapter 2 of title 3, United States Code, is amended by adding at the end the following:

“§ 115. Veterans’ preference

“(a) Subject to subsection (b), appointments under sections 105, 106, and 107 shall be made in accordance with section 2108, and sections 3309 through 3312, of title 5.

1 “(b) Subsection (a) shall not apply to any appoint-
 2 ment to a position the rate of basic pay for which is at
 3 least equal to the minimum rate established for positions
 4 in the Senior Executive Service under section 5382 of title
 5 5 and the duties of which are comparable to those described
 6 in section 3132(a)(2) of such title or to any other position
 7 if, with respect to such position, the President makes certifi-
 8 cation—

9 “(1) that such position is—

10 “(A) a confidential or policy-making posi-
 11 tion; or

12 “(B) a position for which political affili-
 13 ation or political philosophy is otherwise an im-
 14 portant qualification; and

15 “(2) that any individual selected for such posi-
 16 tion is expected to vacate the position at or before the
 17 end of the President’s term (or terms) of office.

18 Each individual appointed to a position described in the
 19 preceding sentence as to which the expectation described in
 20 paragraph (2) applies shall be notified as to such expecta-
 21 tion, in writing, at the time of appointment to such posi-
 22 tion.”.

23 (2) CLERICAL AMENDMENT.—The table of sec-
 24 tions at the beginning of chapter 2 of title 3, United

1 *States Code, is amended by adding at the end the fol-*
2 *lowing:*

“115. Veterans’ preference.”.

3 *(c) LEGISLATIVE BRANCH APPOINTMENTS.—*

4 *(1) DEFINITIONS.—For the purposes of this sub-*
5 *section, the terms “employing office”, “covered em-*
6 *ployee”, and “Board” shall each have the meaning*
7 *given such term by section 101 of the Congressional*
8 *Accountability Act of 1995 (2 U.S.C. 1301).*

9 *(2) RIGHTS AND PROTECTIONS.—The rights and*
10 *protections established under section 2108, sections*
11 *3309 through 3312, and subchapter I of chapter 35,*
12 *of title 5, United States Code, shall apply to covered*
13 *employees.*

14 *(3) REMEDIES.—*

15 *(A) IN GENERAL.—The remedy for a viola-*
16 *tion of paragraph (2) shall be such remedy as*
17 *would be appropriate if awarded under applica-*
18 *ble provisions of title 5, United States Code, in*
19 *the case of a violation of the relevant correspond-*
20 *ing provision (referred to in paragraph (2)) of*
21 *such title.*

22 *(B) PROCEDURE.—The procedure for con-*
23 *sideration of alleged violations of paragraph (2)*
24 *shall be the same as apply under section 401 of*
25 *the Congressional Accountability Act of 1995*

1 *(and the provisions of law referred to therein) in*
2 *the case of an alleged violation of part A of title*
3 *II of such Act.*

4 (4) *REGULATIONS TO IMPLEMENT SUB-*
5 *SECTION.—*

6 (A) *IN GENERAL.—The Board shall, pursu-*
7 *ant to section 304 of the Congressional Account-*
8 *ability Act of 1995 (2 U.S.C. 1384), issue regula-*
9 *tions to implement this subsection.*

10 (B) *AGENCY REGULATIONS.—The regula-*
11 *tions issued under subparagraph (A) shall be the*
12 *same as the most relevant substantive regulations*
13 *(applicable with respect to the executive branch)*
14 *promulgated to implement the statutory provi-*
15 *sions referred to in paragraph (2) except insofar*
16 *as the Board may determine, for good cause*
17 *shown and stated together with the regulation,*
18 *that a modification of such regulations would be*
19 *more effective for the implementation of the*
20 *rights and protections under this subsection.*

21 (C) *COORDINATION.—The regulations issued*
22 *under subparagraph (A) shall be consistent with*
23 *section 225 of the Congressional Accountability*
24 *Act of 1995 (2 U.S.C. 1361).*

1 (5) *APPLICABILITY.*—*Notwithstanding any other*
 2 *provision of this subsection, the term “covered em-*
 3 *ployee” shall not, for purposes of this subsection, in-*
 4 *clude an employee—*

5 (A) *whose appointment is made by the*
 6 *President with the advice and consent of the Sen-*
 7 *ate;*

8 (B) *whose appointment is made by a Mem-*
 9 *ber of Congress or by a committee or subcommit-*
 10 *tee of either House of Congress; or*

11 (C) *who is appointed to a position, the du-*
 12 *ties of which are equivalent to those of a Senior*
 13 *Executive Service position (within the meaning*
 14 *of section 3132(a)(2) of title 5, United States*
 15 *Code).*

16 (6) *EFFECTIVE DATE.*—*Paragraphs (2) and (3)*
 17 *shall be effective as of the effective date of the regula-*
 18 *tions under paragraph (4).*

19 (d) *JUDICIAL BRANCH APPOINTMENTS.*—

20 (1) *IN GENERAL.*—*Subject to paragraphs (2)*
 21 *through (4), the Judicial Conference of the United*
 22 *States shall prescribe regulations to provide for—*

23 (A) *veterans’ preference in the consideration*
 24 *of applicants for employment, and in the con-*

1 *duct of any reductions in force, within the judi-*
 2 *cial branch; and*

3 *(B) redress procedures for alleged violations*
 4 *of any rights provided for under subparagraph*
 5 *(A).*

6 *(2) REGULATIONS TO BE BASED ON EXISTING*
 7 *PROVISIONS.—Under the regulations—*

8 *(A) a preference eligible (as defined by sec-*
 9 *tion 2108 of title 5, United States Code) shall be*
 10 *afforded preferences similar to those under sec-*
 11 *tions 3309 through 3312, and subchapter I of*
 12 *chapter 35, of such title 5; and*

13 *(B) the redress procedures provided for shall*
 14 *be similar to those under the amendments made*
 15 *by section 4.*

16 *(3) EXCLUSIONS.—Nothing in the regulations*
 17 *shall apply with respect to—*

18 *(A) an appointment made by the President,*
 19 *with the advice and consent of the Senate;*

20 *(B) an appointment as a judicial officer;*

21 *(C) an appointment as a law clerk or sec-*
 22 *retary to a justice or judge of the United States;*
 23 *or*

24 *(D) an appointment to a position, the du-*
 25 *ties of which are equivalent to those of a Senior*

1 *Executive Service position (within the meaning*
2 *of section 3132(a)(2) of title 5, United States*
3 *Code).*

4 (4) *CONSULTATION.—The regulations under this*
5 *subsection shall be prescribed by the Judicial Con-*
6 *ference of the United States, in consultation with—*

7 *(A) the largest congressionally chartered vet-*
8 *erans' service organization;*

9 *(B) 2 congressionally chartered veterans'*
10 *service organizations that represent former non-*
11 *commissioned officers;*

12 *(C) a congressionally chartered veterans'*
13 *service organization that represents veterans who*
14 *have fought in foreign wars;*

15 *(D) a congressionally chartered veterans'*
16 *service organization that represents veterans*
17 *with service-connected disabilities;*

18 *(E) a congressionally chartered veterans'*
19 *service organization that represents veterans of*
20 *the Vietnam era; and*

21 *(F) a congressionally chartered veterans'*
22 *service organization that represents veterans of*
23 *World War II, the Korean conflict, the Vietnam*
24 *era, and the Persian Gulf War.*

1 (5) *DEFINITIONS.*—*For purposes of this sub-*
2 *section—*

3 (A) *the term “judicial officer” means a jus-*
4 *tice, judge, or magistrate judge listed in subpara-*
5 *graph (A), (B), (F), or (G) of section 376(a)(1)*
6 *of title 28, United States Code; and*

7 (B) *the term “justice or judge of the United*
8 *States” has the meaning given such term by sec-*
9 *tion 451 of such title 28.*

10 (6) *SUBMISSION TO CONGRESS; EFFECTIVE*
11 *DATE.—*

12 (A) *SUBMISSION TO CONGRESS.*—*Within 5*
13 *months after the date of the enactment of this*
14 *Act, the Judicial Conference of the United States*
15 *shall submit a copy of the regulations prescribed*
16 *under this subsection to the Committee on Gov-*
17 *ernment Reform and Oversight and the Commit-*
18 *tee on the Judiciary of the House of Representa-*
19 *tives and the Committee on Governmental Af-*
20 *airs and the Committee on the Judiciary of the*
21 *Senate.*

22 (B) *EFFECTIVE DATE.*—*The regulations*
23 *prescribed under this subsection shall take effect*
24 *6 months after the date of the enactment of this*
25 *Act.*

1 **SEC. 6. VETERANS' PREFERENCE REQUIRED FOR REDUC-**
 2 **TIONS IN FORCE IN THE FEDERAL AVIATION**
 3 **ADMINISTRATION.**

4 *Section 347(b) of the Department of Transportation*
 5 *and Related Agencies Appropriations Act, 1996 (109 Stat.*
 6 *460) is amended by striking “and” at the end of paragraph*
 7 *(6), by striking the period at the end of paragraph (7) and*
 8 *inserting “; and”, and by adding at the end the following:*
 9 *“(8) sections 3501–3504, as such sections relate*
 10 *to veterans’ preference.”.*

11 **SEC. 7. DEFINITIONAL AMENDMENT.**

12 *Subparagraph (A) of section 2108(1) of title 5, United*
 13 *States Code, is amended by inserting “during a military*
 14 *operation in a qualified hazardous duty area (within the*
 15 *meaning of the first 2 sentences of section 1(b) of Public*
 16 *Law 104–117) and in accordance with requirements that*
 17 *may be prescribed in regulations of the Secretary of De-*
 18 *fense,” after “for which a campaign badge has been author-*
 19 *ized,”.*

20 **SEC. 8. FAILURE TO COMPLY WITH VETERANS' PREF-**
 21 **ERENCE REQUIREMENTS TO BE TREATED AS**
 22 **A PROHIBITED PERSONNEL PRACTICE FOR**
 23 **CERTAIN PURPOSES.**

24 *(a) IN GENERAL.—Subsection (b) of section 2302 of*
 25 *title 5, United States Code, is amended—*

1 (1) *by striking “or” at the end of paragraph*
 2 *(10);*

3 (2) *by redesignating paragraph (11) as para-*
 4 *graph (12); and*

5 (3) *by inserting after paragraph (10) the follow-*
 6 *ing:*

7 “(11)(A) *knowingly take, recommend, or approve*
 8 *any personnel action if the taking of such action*
 9 *would violate a veterans’ preference requirement; or*

10 “(B) *knowingly fail to take, recommend, or ap-*
 11 *prove any personnel action if the failure to take such*
 12 *action would violate a veterans’ preference require-*
 13 *ment; or”.*

14 (b) *DEFINITION; LIMITATION.—Section 2302 of title 5,*
 15 *United States Code, is amended by adding at the end the*
 16 *following:*

17 “(e)(1) *For the purpose of this section, the term ‘veter-*
 18 *ans’ preference requirement’ means any of the following*
 19 *provisions of law:*

20 “(A) *Sections 2108, 3305(b), 3309, 3310, 3311,*
 21 *3312, 3313, 3314, 3315, 3316, 3317(b), 3318, 3320,*
 22 *3351, 3352, 3363, 3501, 3502(b), 3504, and 4303(e)*
 23 *and (with respect to a preference eligible referred to*
 24 *in section 7511(a)(1)(B)) subchapter II of chapter 75*
 25 *and section 7701.*

1 “(B) Sections 943(c)(2) and 1784(c) of title 10.

2 “(C) Section 1308(b) of the Alaska National In-
3 terest Lands Conservation Act.

4 “(D) Section 301(c) of the Foreign Service Act of
5 1980.

6 “(E) Sections 106(f), 7281(e), and 7802(5) of
7 title 38.

8 “(F) Section 1005(a) of title 39.

9 “(G) Any other provision of law that the Direc-
10 tor of the Office of Personnel Management designates
11 in regulations as being a veterans’ preference require-
12 ment for the purposes of this subsection.

13 “(H) Any regulation prescribed under subsection
14 (b) or (c) of section 1302 and any other regulation
15 that implements a provision of law referred to in any
16 of the preceding subparagraphs.

17 “(2) Notwithstanding any other provision of this title,
18 no authority to order corrective action shall be available
19 in connection with a prohibited personnel practice described
20 in subsection (b)(11). Nothing in this paragraph shall be
21 considered to affect any authority under section 1215 (relat-
22 ing to disciplinary action).”.

23 (c) *REPEALS*.—

24 (1) *PROVISIONS OF TITLE 10, UNITED STATES*
25 *CODE*.—Section 1599c of title 10, United States Code,

1 *and the item relating to such section in the table of*
2 *sections at the beginning of chapter 81 of such title*
3 *are repealed.*

4 (2) *SECTION 2302(a)(1) OF TITLE 5, UNITED*
5 *STATES CODE.—Subsection (a)(1) of section 2302 of*
6 *title 5, United States Code, is amended to read as fol-*
7 *lows:*

8 *“(a)(1) For the purpose of this title, ‘prohibited per-*
9 *sonnel practice’ means any action described in subsection*
10 *(b).”.*

11 (d) *SAVINGS PROVISION.—This section shall be treated*
12 *as if it had never been enacted for purposes of any personnel*
13 *action (within the meaning of section 2302 of title 5, United*
14 *States Code) preceding the date of the enactment of this Act.*